

FRED G. CANSLER

IBLA 76-571

Decided June 1, 1977

Appeal from a decision of the Eastern States Office, Bureau of Land Management, denying appellant's application for extension of his hardrock prospecting permit, ES 10427.

Affirmed.

1. Mineral Lands: Prospecting Permits

An application for extension of a hardrock prospecting permit is properly denied where the permittee has not met the conditions imposed by the permit terms and the regulations. Where extension of a prospecting permit is conditioned upon the drilling of an adequate test well or the excavation of an adequate trench pursuant to a prospecting plan approved in advance by the Mining Supervisor, Geological Survey, the allegation on appeal of certain research regarding location of former mines, electromagnetic surveys, and similar activities will not suffice to justify an extension.

APPEARANCES: Fred G. Cansler, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

This appeal is brought from a decision of the Eastern States Office, Bureau of Land Management (BLM), denying appellant's application for extension of his prospecting permit for gold and silver, ES 10427. The decision below was based upon a report by the United States Geological Survey (Survey) stating that its records failed to show that any prospecting was performed and reported as required by the provisions of the prospecting permit during the initial term of the permit.

Appellant's statement of reasons for appeal essentially consists of a letter from Environmental & Regional Research Associates, Inc., addressed to the appellant, which details work allegedly performed relative to the prospecting permit. The activities listed include review of historical documents regarding the "folklore" basis for mining activities in the area, preliminary development of a theoretical geological model, review of "remotely! sensed imagery" of the area to locate past and existing mines, and research of geological literature to determine the nature and extent of historical mining activities. Other work described in the letter included field exploration of several cave sites in the area, limited qualitative analysis of rock and mineral samples from the area, and electromagnetic survey of areas in portions of Unicoi and Washington Counties, Tennessee, for the purpose of locating conductive sites. Appellant also asserts that he has moved some surface rock searching for an "opening underground."

Copies of appellant's statement of reasons for appeal have been submitted to Survey. The response of Survey, a copy of which has been provided to appellant, essentially points out that no prospecting operations have been carried out as required by the terms of the prospecting permit and the regulations. Survey records indicate the permittee failed to submit a prospecting plan and prospecting reports as required by the operating regulations and the permit provisions. Further, Survey notes that special stipulations executed by appellant in conjunction with the permit require performance of certain prospecting work during the initial term of the permit to qualify for an extension. Survey concludes that, "None of the work performed in appellant's behalf by Environmental and Regional Research Associates, Inc., can serve to satisfy prospecting requirements specifically applicable to prospecting permit ES-10427 (Tennessee)."

Appellant's prospecting permit for gold and silver embraced a 425! acre tract of national forest land located in Unicoi County, Tennessee. The prospecting permit was issued to appellant effective October 1, 1973, for a term of 2 years. Issuance of hardrock prospecting permits by the Secretary of the Interior for acquired lands administered by the Agriculture Department (including national forest land) is authorized by Section 402, Reorganization Plan No. 3 of 1946, 60 Stat. 1099.

Action on an application for extension of a prospecting permit is controlled by the provisions of the permit and the pertinent regulations. Sections 1 and 2 of appellant's permit are especially pertinent to prospecting requirements:

Sec. 1. Prospecting. Permittee shall diligently prospect the lands by core drilling or other acceptable methods. Permittee shall notify the regional mining supervisor of the

Geological Survey of the region in which the permit lands are situated of his plans for prospecting prior to commencement of prospect work.

Sec. 2. Operating regulations. (a) Permittee shall comply with all regulations of the Secretary of the Interior; and, as to the lands described herein under his jurisdiction, to the regulations and orders of the Secretary of Agriculture.

(b) Permittee shall comply with the provisions of the operating regulations of the Geological Survey (30 CFR Parts 211 and 231) and all orders issued pursuant thereto. Copies of the operating regulations may be obtained from the regional mining supervisor.

In addition, the following special stipulation concerning prospecting requirements for an extension of the permit was executed by appellant:

At least one adequate test well or trench shall be drilled or excavated at a location and depth approved by the Regional Mining Supervisor or other comparable prospecting performed on the lands during the initial term of the permit to qualify for an extension.

Provision for extension of the permit is made at Sec. 6 of the permit terms where it is stated that the permit may be subject to extension in accordance with the relevant regulations upon approval of the BLM and upon showing of entitlement thereto.

The regulation pertinent to extension of prospecting permits provides that:

A permit may be extended, in the discretion of the Secretary and after consultation with the Mining Supervisor of the Geological Survey, if: \* \* \* The permittee has drilled at least one adequate test well on the permit area or performed other comparable prospecting prescribed in the permit. \* \* \*

43 CFR 3511.3-1(b).

[1] The appellant has not complied with these requirements. He failed to submit any plan for prospecting operations to the Mining Supervisor as required by 30 CFR 231.10 (Survey operating regulations) and the terms of the permit. Appellant has failed to drill an adequate test well or to excavate a trench for prospecting purposes in accordance with the requirements of the regulations, 43 CFR 3511.3-1(b), and the permit terms. The alleged movement of surface

rock by appellant, in the absence of the filing of any prospecting plan with Survey in advance for approval and in the absence of the filing of any report of results with the Survey, 1/ cannot suffice to meet the prospecting requirements.

An application for extension of a prospecting permit is properly denied where the permittee has not drilled an adequate test well on the land embraced in the permit during the 2! year term of the permit. Kansas City Testing Laboratory, A-26308 (January 30, 1952). The rationale for this requirement is the Departmental policy of promoting diligent exploration and development of minerals. Kansas City Testing Laboratory, *supra*; see Apache Oro Co., 22 IBLA 331 (1975). We are in agreement with the conclusion of Survey that the prospecting work required by the permit terms and the regulations as a condition to an extension of the prospecting permit has not been carried out.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Anne Poindexter Lewis  
Administrative Judge

We concur:

Edward W. Stuebing  
Administrative Judge

Joseph W. Goss  
Administrative Judge

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1/ The surface work referred to by the appellant was apparently in violation of the regulations and the permit terms for failure to submit an operating plan to the Mining Supervisor for approval in advance of prospecting operations. Survey has provided a copy of a letter sent to the appellant shortly after the effective date of the permit reminding him of this requirement.

